

Type a plus sign (+) inside this box → ☐

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

DO/PTO Rev. 6/95 DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION <input type="checkbox"/> Declaration Submitted with Initial Filing OR <input checked="" type="checkbox"/> Declaration Submitted after Initial Filing	U.S. Department of Commerce Patent and Trademark Office	Attorney Docket Number	1037BP-1
		First Named Inventor	RHODES, Mike
	COMPLETE IF KNOWN		
		Application Number	09/831,579
		Filing Date	
		Group Art Unit	
		Examiner Name	

As below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed for which a patent is sought on the invention entitled:

"BIO-OXIDATION PROCESS AND APPARATUS"

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on 22 October 1999 as United States Application Number or PCT International (MM/DD/YYYY)

Application Number PCT/AU99/00917 and was amended on (MM/DD/YYYY) (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code § 119 (a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any Pct international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				Yes	No
PP7180	Australia	November 18, 1998	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority sheet attached hereto.

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below

Application Number(s)	Filing Date (MM/DD/YYYY)		
		<input type="checkbox"/>	Additional provisional application numbers are listed on a supplemental priority sheet attached hereto.

Burden Hour Statement: This form is estimated to take .4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents Washington, DC 20231

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DECLARATION	Page 2
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I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States of PCT international application in the manner provided by the first paragraph of Title 35, United States Code § 112.1 acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)
	PCT/AU99/00917	October 22, 1999	

☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority sheet attached hereto.

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

☒ Firm Name SHERIDAN ROSS P.C. Customer Number or label

☐ List attorney(s) and/or agent(s) name and registration number below:

Name	Registration Number	Name	Registration Number
ZINGER, DAVID F.	29,127	HANSEN, LEWIS D.	35,536
GROSETH, CRAIG C.	31,713	KOVARIK, JOSEPH E.	33,005
BLAKELY, TODD P.	31,328	SWARTZ, DOUGLAS W.	37,739
CONNELL, GARY J	32,020	KUGLER, BRUCE A.	38,942
CROOK, WANNELL M.	31,071	BRUNELLI, ROBERT R.	39,617
STAVISH, SABRINA CROWLEY	33,374	HANSRA, TEJPAL S.	38,172

☒ Additional attorney(s) and/or agent(s) named on a supplemental sheet attached hereto

Please direct all correspondence to: ☐ Customer Number or label OR ☐ Fill in correspondence address below

Name ROBERT D. TRAVER

Address 1560 BROADWAY, SUITE 1200

Address

City DENVER State COLORADO Zip 80202-5141

Country UNITED STATES OF AMERICA Telephone (303) 863-9700 Fax (303) 863-0223

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor: ☐ A petition has been filed for this unsigned inventor

Given Name Mike Middle Initial Family Name Rhodes Suffix e.g. Jr.

Inventor's Signature M.K.R. J Date 30/11/01

Residence City Mt. Lawley State W.A. Country Australia Citizenship GB

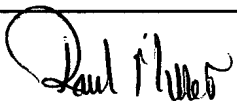


Post Office Address 26 Woodroyd Street

Post Office Address

City Mt. Lawley State W.A. Zip 6050 Country Australia Applicant Authority

☐ Additional inventors are being named on supplemental sheet(s) attached hereto.

Type a plus sign (+) inside this box → ☐

DECLARATION										ADDITIONAL INVENTOR(S) Supplemental Sheet											
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor											
Given Name		Paul				Middle Initial		C.		Family Name		Miller				Suffix e.g. Jr.					
Inventor's Signature										Date		30/11/01									
Residence City		Marmion				State		W.A.		Country		Australia		Citizenship		GB					
Post Office Address		21 Finney Crescent																			
Post Office Address																					
City		Marmion				State		W.A.		Zip		6020		Country		Australia		Applicant Authority			
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor											
Given Name		Richard				Middle Initial				Family Name		Winby				Suffix e.g. Jr.					
Inventor's Signature										Date											
Residence City		Mt. Claremont				State		W.A.		Country		Australia		Citizenship		GB					
Post Office Address		4 Lovegrove Close																			
Post Office Address																					
City		Mt. Claremont				State		W.A.		Zip		60101		Country		Australia		Applicant Authority			
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor											
Given Name						Middle Initial				Family Name						Suffix e.g. Jr.					
Inventor's Signature										Date											
Residence City						State				Country				Citizenship							
Post Office Address																					
Post Office Address																					
City						State				Zip				Country				Applicant Authority			
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor											
Given Name						Middle Initial				Family Name						Suffix e.g. Jr.					
Inventor's Signature										Date											
Residence City						State				Country				Citizenship							
Post Office Address																					
Post Office Address																					
City						State				Zip				Country				Applicant Authority			

☐ Further applicants and/or (further) inventors are indicated on another continuation sheet

PTO/PT Rec'd 21 DEC 2001
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

RHODES et al.

Serial No.: 09/831,579

Int'l. Filing Date: 22 October 1999

Atty. File No.: 1037BP-1

For: "BIO-OXIDATION PROCESS AND
APPARATUS"

) Group Art Unit:

) Examiner:

) DECLARATION IN SUPPORT OF
) PETITION UNDER 37 C.F.R. 1.47(a)

EXPRESS MAIL MAILING LABEL NUMBER: EL76718084665
DATE OF DEPOSIT: 12-21-01

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH
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ABOVE AND IS ADDRESSED TO THE ASSISTANT COMMISSIONER FOR
PATENTS, WASHINGTON, D.C. 20231.

TYPED OR PRINTED NAME: ~~Christine J. Messer~~ JANICE MESSER
SIGNATURE: *Janice Messer*

Assistant Commissioner for Patents
Washington, D.C. 20231
Box: Patent Application

Dear Sir:

The undersigned declares as follows:

1. I am the Australian patent attorney representing BacTech (Australia) Pty Ltd. in patent matters regarding the patent application entitled "BIO-OXIDATION PROCESS AND APPARATUS".
2. I have firsthand knowledge of the facts regarding coinventor Mr. Richard Winby recited herein.
3. On 2 May 2001, I instructed Sheridan Ross, P.C. of Denver, Colorado to file a U.S. Patent application entitled "Bio-oxidation Process and Apparatus" on or prior to 18 May 2001. That application was filed and given Application No. 09/831,579.
4. After filing of the original international application, but prior to filing of the U.S. National Phase application, former CEO of BacTech, and co-inventor of the above-referenced patent application, Mr. Richard Winby, died.
5. Mrs. E. A. Winby, the executor of Mr. Winby's estate, was contacted by Dr. Paul Miller, Technical Manager at BacTech, to raise the issue of Mrs. Winby signing in her capacity as executor for her late husband in compliance with 37 C.F.R. 1.42. Mrs. Winby expressed her reluctance to give her signature to the required declaration at that time although she did not make a specific written or oral refusal. See the Declaration of Dr.

R. Messer

R. Messer

Paul Miller attached hereto and marked Exhibit A.

6. On 22 November 2001, I presented a copy of the application papers to Mrs. Winby for her signature. A copy of all the application papers, including the specification, claims and drawings, was sent to Mrs. Winby at her last known address. See attachments marked Exhibit B.
7. Receipt of these documents by Mrs Winby is evidenced by Mrs Winby's contacting Dr Miller to discuss the documents after receiving them at the end of November 2001 as evidenced by Dr Miller's declaration (Exhibit A).
8. To date, Mrs. Winby has not responded to my mailing, which included a copy of all the application papers, nor has she made an express oral refusal to sign the declaration documents.
9. I have concluded that Mrs. Winby's conduct constitutes a refusal to sign the declaration documents. See MPEP ' 409.03(c). This conclusion is based on the following facts:
 - a) Mr. Winby was formerly employed by BacTech as CEO until the time of his death.
 - b) Mr. Winby's death occurred during overseas travel to London while performing duties as CEO for BacTech.
 - c) Mrs. Winby attributes her husband's death to the demands imposed by the requirements of his position at BacTech, and I believe this to be the principal reason for her desire to have no involvement with BacTech in further prosecution of the patent rights.
 - d) As evidenced by the mailing documents noted above, Mrs. Winby has had ample opportunity to sign and return all necessary documents but has not done so.
10. The last known address of Mrs. Winby is:

4 Lovegrove Close
Mt. Claremont
Western Australia
Australia 6010

Respectfully submitted,

Richard H. Baddeley



STATE OF WESTERN AUSTRALIA

)
) ss.
)



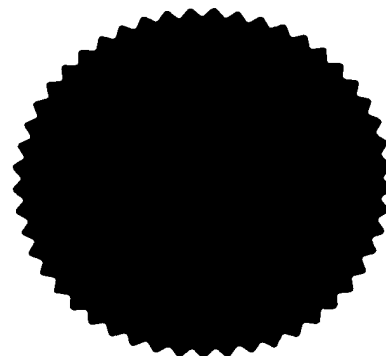
Before me, a Notary Public in and for said State, personally appeared Richard H. Baddeley, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

Given under my hand and seal of office this 17th day of DECEMBER, 2001.

Richard H. Baddeley
Notary Public

My Commission Expires: *Not Applicable*

RICHARD JAMES LARRY Mc CORMACK
Notary Public
c/- Bar Chambers, 77 St George's Tce
Perth, Western Australia



COMMONWEALTH OF AUSTRALIA
THE PATENTS ACT 1990

In the Application of RHODES et al.

Serial No.: 09/831,579

Int'l Filing Date: 22 October 1999

Atty. File No.: 1037BP-1

For "BIO-OXIDATION PROCESS AND APPARATUS

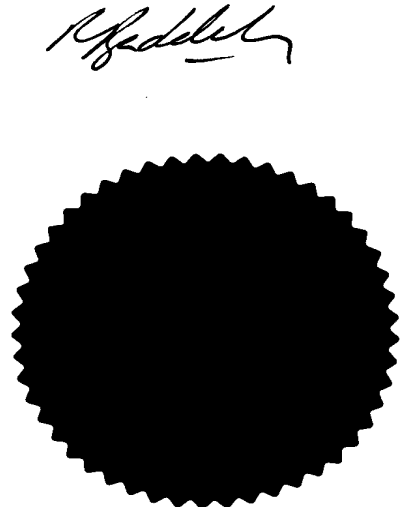
Exhibit "A"

This is the Exhibit marked "Exhibit A" which is referred to in clause 5 of the Declaration
by Richard Hiram Baddeley.

DATED this 17th day of ~~DECEMBER~~ 2001

Before me:

RICHARD JAMES LARRY Mc CORMACK
Notary Public
c/- Bar Chambers, 77 St George's Tce
Perth, Western Australia



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

RHODES et al.

Serial No.: 09/831,579

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EXPRESS MAIL MAILING LABEL NUMBER: EL767780846us
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ABOVE AND IS ADDRESSED TO THE ASSISTANT COMMISSIONER FOR
PATENTS, WASHINGTON, D.C. 20231.

TYPED OR PRINTED NAME: Christine Jacquet JANICE MESSER

SIGNATURE: JANICE MESSER

Assistant Commissioner for Patents
Washington, D.C. 20231
Box: Patent Application

Dear Sir:

The undersigned declares as follows:

1. I am the Technical Manager BacTech (Australia) Pty Ltd. in patent matters regarding the patent application entitled "BIO-OXIDATION PROCESS AND APPARATUS".
2. I have firsthand knowledge of the facts regarding coinventor Mr. Richard Winby recited herein.
3. Mr. Richard Winby, former CEO of BacTech, is a co-inventor of several inventions made during the course of his employment at BacTech. While employed with BacTech, Mr. Winby died.
4. I have had four occasions to speak directly with Mrs. Winby, who is the executor of Mr. Winby's estate, regarding the issue of her signing necessary documents for further prosecution of patent applications in her capacity as executor for the estate. Additionally, I had occasion to leave a message on her answer phone and another occasion to raise the issue with her during her visit to the BacTech office in Kewdale, Australia.
5. My first telephone contact with Mrs. Winby occurred on 8 December 2000. We spoke at considerable length on the issue and Mrs. Winby expressed her reluctance to give her signature to the relevant papers due to unfortunate experiences with signing other documentation related to Mr. Winby's death. We did reach an agreement to discuss the


David Miller

R. Messer

matter further with Mr. Richard Baddeley at the law offices of Watermark Patent and Trademark Attorneys. Unfortunately, Mrs. Winby never agreed to a date for this meeting to take place.

6. I made two other phone calls to Mrs. Winby on 6 April 2001 and 23 April 2001 attempting to discuss the issue further, but Mrs. Winby refused to discuss the issue in either of those instances.
7. The issue of obtaining Mrs. Winby's signature was later raised again during a visit by Mrs. Winby to BacTech's office in Kewdale, Australia but Mrs. Winby declined to discuss the matter at that time.
8. I also left another message on Mrs. Winby's answerphone raising the issue of obtaining her signature, but Mrs. Winby did not return that message.
9. Mrs Winby contacted me after receiving the application forms mailed to her by Mr Richard Baddeley. We discussed the forms but Mrs Winby persisted in her reluctance to sign the forms.

Respectfully submitted,



Dr. Paul Miller
Technical Manager
BacTech Australia Pty Ltd.

STATE OF

)
) ss.
)

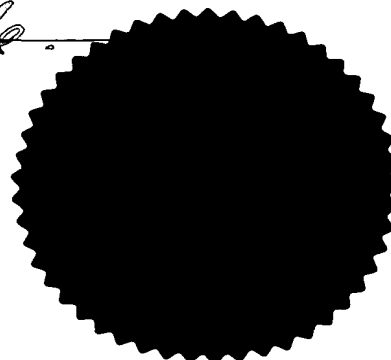
Before me, a Notary Public in and for said State, personally appeared Dr. Paul Miller, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

Given under my hand and seal of office this 17th day of DECEMBER, 2001.


Notary Public

My Commission Expires: 14/12/2002

RICHARD JAMES LARRY Mc CORMACK
Notary Public
c/- Bar Chambers, 77 St George's Terrace
Perth, Western Australia



In the Application of RHODES et al.

Serial No.: 09/831,579

Int'l Filing Date: 22 October 1999

Atty. File No.: 1037BP-1

For "BIO-OXIDATION PROCESS AND APPARATUS

Exhibit "B"

This is the Exhibit marked "Exhibit B" which is referred to in clause 6 of the Declaration by
Richard Hiram Baddeley.



DATED this 17th day of DECEMBER, 2001

Before me:.....

RICHARD JAMES LARRY Mc CORMACK
Notary Public
c/- Bar Chambers, 77 St George's Terrace
Perth, Western Australia

